

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NATIONAL AMERICAN INSURANCE
COMPANY, et al.,

Plaintiffs,

v.

No. CV 19-1020 KG/CG

IRIS RODRIQUEZ, as the Personal
Representative of the ESTATE OF
CHAD ZACK RODRIQUEZ,

Defendants.

ORDER ADOPTING CHIEF MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court on Chief Magistrate Judge Carmen E. Garza's *Proposed Findings and Recommended Disposition* (the "PFRD"), (Doc. 76), filed February 26, 2021, and the parties' *Motion for Court Approval of Minor Settlement* (the "Motion"), (Doc. 68), filed December 14, 2020. In the PFRD, the Chief Magistrate Judge recommended that the parties' Motion be approved. (Doc. 76 at 1).

Pursuant to 28 U.S.C. § 636(b)(1), a party may file written objections with the Clerk of the District Court within 14 days after that party is served with a copy of a proposed findings and recommended disposition. In this case, however, at the February 3, 2021, fairness hearing the parties waived the objections period set forth in § 636(b)(1) in order that this case might be finalized expeditiously. (Doc. 75). The recommendation of the Chief Magistrate Judge is therefore adopted by this Court.

The Court, having considered the terms of the parties' settlement, the Guardian Ad Litem (the "GAL") reports, the record of this case, the relevant law, and the recommendation of the

Chief Magistrate Judge, finds the settlement and the proposed division of the settlement proceeds is fair, reasonable, and in the best interest of Chevy Alan Rodriquez and Lillie Rose Rodriquez and finds that it is APPROVED.

IT IS THEREFORE ORDERED as follows:

1. By way of settlement, the insurers shall pay the following sums:
 - a. Progressive County Mutual Insurance Company, on behalf of its insured, the Estate of Ricky Swafford, Gulf Interstate Field Services, Inc., and Gulf International Corporation will pay the following sums:
 - i. An immediate cash payment of \$3,083,110.52 (of which Progressive County Mutual Insurance Company on behalf of its insured, the Estate of Ricky Swafford, shall pay \$30,007.00), to be disbursed as follows:
 - (1) \$1,510,002.00 for attorney fees payable to Iris Rodriquez's counsel.
 - (2) \$118,282.98 for New Mexico Gross Receipts Tax payable to Iris Rodriquez's counsel.
 - (3) \$1,446,896.48 payable to Iris Rodriquez and her counsel.
 - (4) \$7,929.06 for costs payable to Iris Rodriquez's counsel.
 - ii. Future periodic payments shall be funded on the dates and in the amounts indicated hereafter:

(1) Payable to Chevy Rodriquez

- a. \$20,000.00 semiannually, guaranteed 4 years, beginning at age 18 (on February 16, 2034). The last payment will be made on August 16, 2037.
- b. \$1,250.00 per month, guaranteed 4 years, beginning at age 18 (on February 16, 2034). The last payment will be made on January 16, 2038.
- c. \$200,000.00 guaranteed lump sum payable at age 30 (on February 16, 2046).
- d. \$6,250.00 quarterly, guaranteed 1 year, beginning at age 22 (on February 16, 2038). The last payment will be made on November 16, 2038.
- e. \$12,500.00 quarterly, guaranteed 1 year, beginning at age 26 (on February 16, 2042). The last payment will be made on November 16, 2042.
- f. \$6,250.00 quarterly, guaranteed 3 years, beginning at age 27 (on February 16, 2043). The last payment will be made on November 16, 2045.
- g. \$1,708.97 per month for the life of Chevy Rodriquez, guaranteed 25 years, beginning at age 22 (on February 16, 2038). The last guaranteed payment will be made on January 16, 2063.

(2) Payable to Lillie Rodriquez

- a. \$20,000.00 semiannually, guaranteed 4 years, beginning at age 18 (on August 5, 2035). The last payment will be made on February 5, 2039.
- b. \$1,250.00 per month, guaranteed 4 years, beginning at age 18 (on August 5, 2035). The last payment will be made on July 5, 2039.
- c. \$6,250.00 quarterly, guaranteed 1 year, beginning at age 22 (on August 5, 2039). The last payment will be made on May 5, 2040.
- d. \$12,500.00 quarterly, guaranteed 1 year, beginning at age 26 (on August 5, 2043). The last payment will be made on May 5, 2044.
- e. \$6,250.00 quarterly, guaranteed 3 years, beginning at age 27 (on August 5, 2044). The last payment will be made on May 5, 2047.
- f. \$1,803.64 per month for the life of Lillie Rodriquez, guaranteed 25 years, beginning at age 22 (on August 5, 2039). The last guaranteed payment will be made on July 5, 2064.
- g. \$200,000.00 guaranteed lump sum payable at age 30 (on August 5, 2047).

- (3) The obligation to make periodic payments described above may be assigned to USAA Annuity Services Corporation and funded by an annuity contract issued by USAA Life Insurance Company, rated A++XV by A.M. Best Company, and AA+ by Standard and Poor's.
2. In consideration of the above-referenced payments, Progressive County Mutual Insurance Company, Tyler Swafford, as the Personal Representative of the Estate of Ricky Swafford, The Estate of Ricky Swafford, Gulf Interstate Field Services, Inc., Gulf International Corporation, Liberty Mutual Insurance Company and Fireman's Fund Insurance Company/Allaniz are released from any further claims from Iris Rodriguez, Individually and as Natural Guardian and Next Friend of Chevy Alan Rodriguez and Lillie Rose Rodriguez, minors, arising from the accident of October 25, 2017.
3. All claims against National American Insurance Company are also dismissed with prejudice.
4. The fees of Cord Borner, the court-appointed Guardian Ad Litem, shall be paid by Gulf Interstate Field Services, Inc., and Gulf International Corporation and their insurers.
5. Upon filing of this Order, Cord Borner shall be released from his duties as Guardian Ad Litem in this matter.

IT IS FINALLY ORDERED that the claims of Iris Rodriguez, Individually and as Natural Guardian and Next Friend of Chevy Alan Rodriguez and Lillie Rose Rodriguez, minors,

are hereby dismissed with prejudice with the parties bearing their own costs and attorney fees, other than as set out in this Order.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE